PART IV

SECTION—1-B

CENTRAL ACTS AND ORDINANCES

GOVERNMENT OF KARNATAKA

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 44 LCA 75.

Bangalore, dated 11th/14th July, 1975.

Ordered that the Tabacco Cess Act, 1975 which has been published in the Gazette of India, Extraordinary, Part II Section I dated 12th May 1975 be republished in *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESH RAO,

Under Secretary to Government,

11 *Department of Law and Parliamentary Affairs.*

Assented to on 12th May 1975 Act No. 26 of 1975

THE TOBACCO CESS ACT, 1975.

to provide for the levy and collection, by way of cess, of a duty of excise on virginia tobacco and a duty of customs on tobacco, for the development of tobacco industry and for matters connected therewith.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Tobacco Cess Act, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions.

2. **Definitions.**—(1) In this Act, unless the context otherwise requires,—

(a) "Board" means the Tobacco Board established under section 4 of the Tobacco Board Act, 1975 (4 of 1975);

(*b*) "prescribed" means prescribed by rules made under this Act ;

(c) "registered auction platform" means an auction platform registered with the Board in accordance with the rules made under the Tobacco Board Act, 1975 (4 of 1975),

(2) All words and expressions used in this Act and not defined, but defined in the Tobacco Boad Act, 1975 (4 of 1975) shall have the meanings respectively assigned to them in that Act.

3. **Duties of excise on virginia tobacco,**-(1) There shall be levied and collected, by way of a cess for the purposes of the Tobacco Board Act, 1975, (4 of 1975), a duty of excise at the rate of one paisa per kilogram on virginia Tobacco which is produced in India and sold at a registered auction platform.

(2) The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on virginia tobacco under any other law for the time being in force.

(3) The duty of excise payable under sub-section (1) in respect of any virginia tobacco sold at a registered auction platform shall be payable by the seller thereof to the person or authority prescribed in respect of such platform.

(4) The person or authority prescribed in respect of a registered auction platform shall collect the duty of excise payable on virginia tobacco sold at such platform and pay the amount so collected to the Central Government in such manner and within such time as may be prescribed.

(5) If any duty of excise payable under this section or if any amount collected under this section by way of such duty, has not been paid to the Central Government within the period prescribed under sub-section (4), the Central Government may recover such duty or amount in the same manner as an arrears of land revenue.

4. Duties of customs on tobacco.—(1) There shall be levied and collected, by way of a cess for the purposes of the Tobacco Board Act, 1975 (4 of 1975) a duty of customs at such rate not exceeding one per cent *ad volorem* as the Central Government may specify, by notification in the Official Gazette, on all tobacco, which is exported.

Explanation.—"Exported" means taken out of India by land, sea or air.

(2) The duties of customs levied under sub-section (1) shall be in addition to any cess or duty leviable on tobacco under any other law for the time being in force.

(3) The provisions of the Customs Act, 1962 (52 of 1962), and the rules and regulations made thereunder, including those relating to refunds and exemptions from duty, shall, as far as may, apply in relation to the levy and collection of the duty of customs leviable under sub-section

(1) as they apply in relation to the levy and collection of duties of customs under that Act or those rules and regulations.

5. Crediting proceeds of duties to Consolidated Fund of India.—The proceeds of the duties of excise and customs levied under sections 3 and 4 respectively shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised for the purposes of the Tobacco Board Act, 1975. (4 of 1975).

6. Penalty for evasion of duty of excise payable under section 3.—Whover wilfully or intentionally evades or attempts to evade the payment of any duty of excise payable by him under section 3, or the payment of any amount collected by way of duty under that section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

7. Offences by companies. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent that commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence

has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section:—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

8. **Jurisdiction of court.**—No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

9. **Previous sanction of Central Government.**—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

10. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government or against the Board or any officer or employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

11. **Power of Central Government to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the assessment and collection of the duties of excise levied under section 3 and the functions and powers

which may be exercised and the duties which may be discharged in connection therewith by the Board or any officers or other employees of the Board;

(b) the persons or authorities who may collect duties of excise under sub-sections (3) and (4) of section 3, the time within which and the manner in which the proceeds of such duties of excise shall be paid to the Central Government;

(c) the returns which the persons or authorities referred to in clause (b) shall furnish to the Central Government and the form and the manner in which and the intervals at which such returns shall be furnished;

(d) any other matter which has to be, or may be, prescribed by, or provided for, by rules, under this Act.

(3) In making any rule under this section, the Central Government may direct that a contravention thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effct only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.